REMARKS

In the Office Action, the Examiner has set forth both a Requirement for Restriction and a requirement for election of species. In particular, the Examiner has required restriction between Claims 1-24 (Group I), and Claims 25-26 (Group II). Applicant chooses the claims of Group I, Claims 1-24, with traverse.

In the Office Action, it is stated that Groups I and II are related as product (Group II) and process of use (Group I), which Groups can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product, or (2) the product as claimed can be used in a materially different process of using that product. M.P.E.P. § 806.05(h). Regarding condition (1), Applicant respectfully suggests that the term "with another materially different product" has been misinterpreted to mean "in conjunction with another product", when the phrase really means "using a different product instead of the claimed product".

In addition, the Office Action alleges that there would be a serious search and examination burden if restriction were not required because "one or more" of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The Examiner has merely listed several of the possible reasons which may make a Requirement for Restriction proper. However, M.P.E.P. § 808.01(a) states that "The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated." Thus it is submitted that the Examiner has not stated the particular

reason(s) for Restriction have been concisely stated in regard to the presently claimed invention. For example, Applicant submits that the instant claims are not likely to raise non-prior art issues under 35 U.S.C. § 101. It is respectfully pointed out that reason (a) does not apply either, as both Groups are in class 514, subclass 299.

Regarding the election of species, Applicant notes with appreciation the observation in the Office Action that Claims 1, 3, 5, 7, 9-12, 14-16, 18-21, and 23-26 are generic to the species between which election has been required. The two species between which election has been required are (1) a single compound falling within the formula shown on Page 4 of the Office Action, and (2) a single disclosed disease or neuronal inflammatory condition. Applicant elects with traverse species (1), a single compound falling within the formula shown on Page 4 of the Office Action, in particular 1-(((1(R-(3-(2-(7-chloro-2-quinolinyl)ethenyl)phenyl)-3-(2-(2-hydroxy-2-propyl)phenyl)propyl)thio)methyl) cyclopropaneacetic acid and pharaceutically acceptable salts thereof, which compound is listed at least in Claims 11, 15, 20, and 24. It is noted for the record that the formula shown on Page 4 of the Office Action is the same as that shown in Claim 1. Applicant understands that if generic clams are found allowable, claims to non-elected species may be rejoined as provided by 37 C.F.R. § 1.141.

Favorable action on both the Requirement for Restriction and the election of species is solicited. If any matters remain in requiring further consideration, the Examiner is respectfully requested to telephone the undersigned so that such matters can be discussed, and if possible, promptly resolved.

Respectfully submitted,

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